# IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

JIMMY LEE CLAYPOOL,	)
Plaintiff,	) ) No. 1:19-CV-000867
v.	
STEADFAST INSURANCE COMPANY,  Defendant.	) ) )

### **DEFENDANT'S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332 and 1446, defendant Steadfast Insurance Company ("Steadfast") hereby gives notice and removes this case to the United States District Court for the Western District of Texas, Austin Division. Steadfast represents the following in accordance with the requirement of 28 U.S.C. § 1446(a) for a "short and plain statement of the grounds for removal":

#### BASIS FOR REMOVAL

Steadfast is a defendant in a state court case in which plaintiff Jimmy Lee Claypool ("Claypool") alleges entitlement to certain insurance benefits. *See* Plaintiff's Original Petition, attached hereto as **Exhibit A**.

Steadfast is a corporation, incorporated and with its principal place of business in the state of Delaware. Steadfast is a citizen of Delaware, not Texas. Plaintiff is an individual who is citizen of the state of Texas. Steadfast and Claypool are thus citizens of different states. Claypool alleges more than \$1,000,000 in damages. *See* Ex. A at ightharpoonup 6.03.

Claypool served Steadfast with Plaintiff's Original Petition on August 15, 2019. Prior to being served with Plaintiff's Original Petition, Steadfast had not been served with any pleading or

papers that would show a basis for removal to this Court. This Notice of Removal is timely filed, as it is being filed within thirty days after service of a summons and Plaintiff's Original Petition upon Steadfast as required by 28 U.S.C. § 1446(b).

As required by 28 U.S.C. § 1446(a), a copy of all records and proceedings from Travis County, Texas, are attached hereto as exhibits. **Exhibit A** is Plaintiff's Original Petition. **Exhibit B** contains the remainder of the state court file. In accordance with 28 U.S.C. § 1446(d), Steadfast filed written notice of this removal with the Clerk of the Court of Travis County, Texas. A copy of this Notice of Removal and the written notice of the same also are being served upon Claypool.

### **EFFECTUATION OF REMOVAL**

Removal is proper under 28 U.S.C. §§ 1332 and 1441 because the amount in controversy, exclusive of interest and costs, exceeds \$75,000 and the action is between citizens of different states. Steadfast thus hereby removes this action to the United States District Court for the Western District of Texas, Austin Division. Venue is proper in this Court pursuant to 28 U.S.C. § 1446(a), as the United States District Court for the Western District of Texas, Austin Division, is the district in which Plaintiff's Original Petition was filed.

WHEREFORE, Steadfast Insurance Company hereby removes this action to the United States

District Court for the Western District of Texas, Austin Division.

Dated: September 4, 2019.

## Respectfully submitted,

/s/ William Akins

William J. Akins State Bar No. 24011972 FISHERBROYLES LLP 100 Congress Ave. Suite 2000 Austin, Texas 78701 Telephone: (214) 924-9504 william.akins@fisherbroyles.com

Bryan D. Pollard State Bar No. 00795592 FISHERBROYLES, LLP Highland Park Place 4514 Cole Avenue, Suite 600 Dallas, Texas 75205 E-Mail: bryan.pollard@fisherbroyles.com Telephone: (214) 984-7153

Facsimile: (214) 279-7192

ATTORNEYS FOR DEFENDA

ATTORNEYS FOR DEFENDANT STEADFAST INSURANCE COMPANY